

SAN JOSE APPEALS HEARING BOARD MINUTES
THURSDAY, MARCH 27, 2008
6:30 P.M., COUNCIL CHAMBERS

1. The meeting of the San Jose Appeals Hearing Board convened this date at 6:30 p.m., Council Chambers, City Hall, with the following members in attendance: Chairperson Clark Williams, Commissioners Calvin Chu, Sonja Etienne, Jose Hernandez, Troy Overton, Karen Parsons, and Susan Ruscigno.

Staff Present: Evet Loewen, Chief Deputy City Attorney
Sandy Bouja, Appeals Hearing Board Secretary
Diane Buchanan, Code Enforcement
Luis Arevalo, Code Enforcement
Garry McLeod, Code Enforcement
Greg Peacock, Code Enforcement
Jeff Batelle, Building Department
Betty Mitre, Code Enforcement

2. **Opening Remarks and Approval of Minutes**

Chairperson Clark Williams read a statement to the public requesting that speakers identify themselves and state their address. There was a motion by Commissioner Parsons, seconded by Commissioner Chu, to approve the minutes of March 13, 2008.

3. **Request for Excused Absence**

4. **Public Hearings Consent Calendar**

- a. **2148 Leon Drive (282-30-029) Summary Abatement**
(Garry McLeod, Inspector / Tamio Yanagawa, Property Owner)
- b. **133 Oak Street (264-36-049) Summary Abatement**
(Garry McLeod, Inspector / Jose V. Luna, Property Owner)

There were no separate discussions on hearing items regarding 2148 Leon Drive and 133 Oak Street. The hearing items were considered to be routine and were adopted in one motion.

There was a motion by Commissioner Parsons, seconded by Commissioner Etienne, to order as follows:

To approve the Consent Calendar and abate the properties.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

5. Deferred and/or Continued Items

a. 1137 Via Jose (577-23-013) Proposed Abatement

(Greg Peacock, Inspector / Edwin Hill, Property Owner)

Code Enforcement Inspector Greg Peacock testified and gave a brief summary of his inspections and presented photos of the subject property. The photos were of a large pile of dirt on the driveway, an inoperable white Ford vehicle; steel I-beam and a pile of wood debris on the property. Inspector Peacock presented recent photos of the property which shows cut tree branches in the front yard and grasses and weeds growing on the existing pile of dirt on the driveway.

Inspector Peacock stated that there are new restrictions for bringing soil to a landfill. A contractor is needed to issue a warrant and test the soil for contamination.

Property Owner was not present.

There was a motion by Commissioner Parsons, seconded by Commissioner Hernandez, to order as follows:

To require the property owner to remove the items as directed by City staff.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

Chair Williams addressed the Board and stated that the property owner, Mr. Edwin Hill, is present and Inspector Peacock had given his testimony and is no longer present.

Chief Deputy City Attorney explained that the Board may decide to reopen the matter and defer the case to another date in order for the Inspector to be present or if the Board finds that there was adequate opportunity for the property owner to be present at the time the matter was brought before the Board and given the number of times the matter has been on the agenda, the Board may allow the Property Owner to speak but not reopen the matter.

Chair Williams stated that when Inspector Peacock was present and gave his testimony, he had asked several times whether or not the property owner, Mr. Hill, was present and Mr. Hill was not present. Chair Williams stated that he would give

Mr. Hill an opportunity to speak, but not reopen the matter unless a motion is made to do so by the Board.

Mr. Hill apologized for being late and stated that he did not receive notice until August, 2007. Mr. Hill stated that the topsoil on the subject property is worth over \$1000.00 and that he will use the topsoil to raise his garden beds up to 24 inches. Mr. Hill stated that it would take him one and a half months to complete.

Mr. Hill is requesting that the Board reopen the matter.

Chair Williams stated that the Board has already made the Order and thanked Mr. Hill.

c. 223 Edwards Avenue (264-38-062) Administrative Remedy
(Garry McLeod, Inspector / Roberto & Mayra M. Guerra, Property Owners)

Code Enforcement Inspector Garry McLeod testified and gave a summary of his inspections at the subject property. Inspector McLeod stated that the owner of the subject property needs to contact the Building Department for an inspection to determine what is needed to obtain permits for the accessory structures and that the basement is not to be occupied.

Property Owner Mayra Guerra was present. Ms. Guerra stated that the basement is no longer occupied. Ms. Guerra stated that she did not do any remodeling to the property and it is in the same condition as when she was added to the deed. Robert Felix accompanied Ms. Guerra and stated that they did not remodel the property and that he and Ms. Guerra were not aware that the renters living at the property had rented out the garage.

There was a motion by Commissioner Parsons, seconded by Commissioner Hernandez, to order as follows:

To approve the Order to Correct and to order the Property Owner to continue to cease all occupation of the basement and all accessory structures and schedule a compliance inspection to inspect the property on or before June 27, 2008 and obtain the required permits. The administrative costs of \$853.22 are to be paid by April 28, 2008. Administrative penalties are to be held in abeyance until June 27, 2008 and \$100.00 per day will accrue if the above items have not occurred.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams
NAYS:
ABSENT:

6. Public Hearings

a. 1040 Ellis Avenue (429-26-005) Administrative Remedy

(Luis Arevalo, Inspector / Timothy Zeigler, Trustee of Helen Castro Trust)

Code Enforcement Inspector Luis Arevalo testified and gave a brief summary of his inspections at the subject property. Inspector Arevalo stated that he had requested an inspection of the property, but was denied several times by the property owner. Inspector Arevalo stated that an inspection warrant was obtained and as of today, the property owner has not made the required corrections.

Property owner was present. Mr. Ziegler testified and stated that the attic is not occupied, but is used for storage. Mr. Ziegler also stated that he does not have the resources needed to hire an architect.

Building Inspector Jeff Batelle stated that added storage space is not meant to store things. A plan check is required to legalize the structure and an engineer is needed to keep the space in the attic the way it is. To lessen the cost, the property owner would have to revert the space back to an attic.

There was a motion by Commissioner Overton, seconded by Commissioner Parsons, to order as follows:

To adopt City staff's recommendation with the exception of having the administrative costs of \$2889.69 due on or before July 31, 2008. Administrative penalties of \$760.00 are to be held in abeyance until July 31, 2008. If compliance is not made, starting August 1, 2008 there is a penalty of \$200.00 a day in addition to the \$760.00.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

c. 4917 Rio Verde Court (569-36-006) Proposed Abatement

(Garry McLeod, Inspector / Helen Y. & Osamu Kawauchi, Property Owners)

Code Enforcement Inspector Garry McLeod testified and gave a brief summary of his inspections and observations of the overgrown vegetation and debris on the subject property.

Property Owner was not present.

There was a motion by Commissioner Hernandez, seconded by Commissioner Parsons, to order as follows:

To support City staff's recommendation.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

7. OTHER BUSINESS

8. ORAL COMMUNICATIONS FROM THE PUBLIC

9. ADJOURNMENT

There was a motion by Commissioner Chu, seconded by Commissioner Parsons to adjourn the meeting. Chair Clark Williams adjourned the meeting at 8:05 p.m. The next regular meeting will be held on Thursday, April 10, 2008 at 6:30 p.m., at the City Hall Council Chambers.